

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

<p>IN RE:</p> <p>MONTANA MIKE'S STEAKHOUSE; BUENA VISTA COUNTY COURTHOUSE; BUENA VISTA COUNTY LAW ENFORCEMENT CENTER; AVOCA SUPER FOODS; R&amp;L FOODS; LOFFREDO FRESH PRODUCE; MULHOLLAND GROCERY; SCOTT'S FOODS, STORAGE &amp; DESIGN; CAPITAL CITY FRUIT; and ARTI, LLC,</p> <p style="text-align:right">Complainants,</p> <p style="text-align:center">vs.</p> <p>MIDAMERICAN ENERGY COMPANY,</p> <p style="text-align:right">Respondent.</p>	<p>DOCKET NO. FCU-2014-0015 (C-2014-0123, C-2014-0126, C-2014-0127, C-2014-0128, C-2014-0129, C-2014-0130, C-2014-0131, C-2014-0132, C-2014-0141, C-2014-0142, C-2014-0145)</p>
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**ORDER OPENING FORMAL COMPLAINT PROCEEDING, INITIATING SEPARATE  
FORMAL COMPLAINT PROCEEDING, AND SETTING HEARING DATE**

(Issued November 21, 2014)

**PROCEDURAL BACKGROUND**

From September 18, 2014, through October 20, 2014, ten small businesses from around the state of Iowa filed written complaints with the Utilities Board (Board) against MidAmerican Energy Company (MidAmerican) regarding the increase in the electric rates paid by each business that resulted from a new demand charge approved by the Board in MidAmerican's last general rate case,

DOCKET NO. FCU-2014-0015 (C-2014-0123, C-2014-0126, C-2014-0127, C-2014-0128, C-2014-0129, C-2014-0130, C-2014-0131, C-2-14-0132, C-2014-0141, C-2014-0142, C-2014-0145)

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Docket No. RPU-2013-0004. A complaint was also filed by Arti, LLC (Arti), concerning rates charged by MidAmerican approved in Docket No. RPU-2014-0004. The complaints from each of the small businesses are identified by file number and summarized below. The complaint of Arti will be separated from the other complaints and a separate formal complaint docket will be opened to address the issues raised by therein. The Board will issue an order concurrently with this order opening Docket No. FCU-2014-0016 to address the Arti complaint.

**C-2014-0123:** Judy Lilly filed the complaint on behalf of Montana Mike's Steakhouse in Des Moines, Iowa. Lilly stated that the recent monthly billing statements for electric charges from MidAmerican included more line items and one of the new charges was a demand charge in the amount of \$721.14. Lilly stated that she has never had a demand charge on any previous electric bill. When Lilly inquired about the new demand charge, MidAmerican told her that before the rate increase approved by the Board in Docket No. RPU-2013-0004 customers that had demand meters were only charged the demand charge if usage went above the cap of 200 kilowatts (kW) peak in a month and, since the usage at Montana Mike's Steakhouse was never over the 200 kW cap, no demand charge was included on the previous electric bills. Lilly was told by MidAmerican that along with the general rate increase the 200 kW cap was eliminated and every customer with a demand meter will be charged the demand charge base on the highest monthly peak kilowatt demand.

Lilly raised several concerns about the new charges for electric usage at Montana Mike's Steakhouse. Lilly stated that the September 2014 bill showed electric charges totaling \$958.63, which were 31.88 percent higher than electric charges in the September 2013 bill. These charges were 32.20 percent higher than the August 2014 bill. Lilly stated that MidAmerican provided insufficient notice to customers with a demand meter that they would now have a demand charge on all bills and she questioned why MidAmerican excluded this restaurant from the mitigation plan. Lilly also suggested that the mitigation plan that used the initial comparison between the temporary/interim rates and the approved 2014 rates is flawed.

**C-2014-0126 and C-2014-0127:** Steve Hammen filed two complaints on behalf of Buena Vista County Courthouse and the Buena Vista County Law Enforcement Center both in Storm Lake, Iowa. Hammen complained about the electric rate increase and alleged that there was insufficient customer notice about the impacts of the rate changes and the new demand charge. Hammen stated that the Buena Vista County Courthouse and the Buena Vista County Law Enforcement Center experienced a dramatic change in their electric bills due to the rate increase, the adjustment clauses, and riders. Hammen stated that the electric costs when compared with September 2013 are at least 45 percent higher for the Law Enforcement Center and 26 percent higher for the Courthouse. Hammen stated that both locations had lower electric usage in September 2014 than September 2013

and still had a large increase in their bill. Hammen stated that the only information they received on this rate increase was a pamphlet handed to them last fall suggesting that there might be a 3.6 percent rate increase. Hammen stated this rate increase is burdensome and the two facilities had budgeted for a 3.6 percent increase, not a 26 percent or 45 percent increase. Hammen stated the Board should have determined what impact the rates would have on each individual rate class when it approved the rate case. Hammen stated he feels the notification of this process by MidAmerican was insufficient.

**C-2014-0128:** Doug Spitznagle filed a complaint on behalf of Avoca Super Foods in Avoca, Iowa. Spitznagle stated the September 2014 MidAmerican billing statement for his business showed an increase in the cost per day for electric usage from August 2013 to August 2014 of \$60 per day and the monthly bill was \$2,000 higher than the previous year's billing due to the change in rates. Spitznagle expressed concern about the future of the business since the business will not be able to absorb this kind of increase for an extended period of time.

**C-2014-0129:** Bob LeMonds filed a complaint on behalf of R&L Foods in Doon, Iowa. LeMonds stated that the MidAmerican monthly gas and electric billing statement for September 2014 had increased \$400 for the electric charges over the September 2013 billing. LeMonds expressed concern about the future of the business because of the significant increase in electric rates.

**C-2014-0130:** Mark Zimmerman filed a complaint on behalf of Loffredo Fresh Produce in Des Moines, Iowa. Zimmerman indicated that there had been an increase in the electric rate and that the cost per day for the electric usage had gone up by 52.42 percent, from \$545.07 per day in August 2013 to \$830.79 per day in August 2014. Zimmerman further stated that there is no way to absorb this type of increase in rates.

**C-2014-0131:** Tom Mulholland filed a complaint on behalf of Mulholland Grocery in Malvern, Iowa. Mullholland stated that not only was the September 2014 electric bill 29 percent higher than the previous year at the same time, but the business was being charged a demand charge in the amount of nearly \$400. Mullholland stated that the business will be devastated by the increased costs.

**C-2014-0132:** Scott Havens filed a complaint on behalf of Scott's Foods in Norwalk, Iowa. Havens stated that he was shocked when he received the September 20, 2014, MidAmerican electric bill for the business. Havens stated that in September 2014 the business used 5 percent more electricity when compared to September 2013 usage; however, the electric charges increased by 40 percent on the September 2014 billing. Havens stated that for the last two years the business averaged \$5,200 per month for electric service and that the electric bill for September 2014 was \$8,735. Havens requested to have the Board review the electric charges for the business since an extra \$3,000 per month is a hardship for his business.

**C-2014-0141:** Ron Patterson filed a complaint on behalf of Storage & Design in Des Moines, Iowa. Patterson stated that the most current monthly bill had a substantial electric service rate increase due to a demand charge and he wanted the Board to review the recent changes in the MidAmerican electric rates. Patterson stated that a demand charge appeared on his electric bill and after spending a large amount of money to save energy his bill increased by 42 percent.

**C-2014-0142:** Brendan Comito filed a complaint on behalf of Capital City Fruit in Norwalk, Iowa. Comito stated that the September 2013 MidAmerican electric monthly billing statement was \$8,615 and the September 2014 bill was \$16, 272. Comito stated that electric usage at the business increased 45 percent; however, the electric bill increased 88 percent. Comito also stated that the business had expected to see an increase in the electric rates of around 3 to 5 percent based upon the information provided by MidAmerican.

### **MIDAMERICAN RESPONSE**

MidAmerican filed responses to the informal complaints. With regard to the complaints about the additional demand charge for the small commercial customers, MidAmerican stated that prior to the approval of its electric rate increase in Docket No. RPU-2013-0004 non-residential customers the approximate size of these small commercial businesses that are located in the north and south pricing zones of MidAmerican's territory purchased service under a rate that had a demand charge listed in the tariff. However, that demand charge only applied if the Peak kW usage

was greater than 200 kW and the kilowatt-hours of use per kW of demand (calculated by dividing the Total kWh by the Peak kW) was less than 250 kWh in that month. Most small businesses did not see a demand charge on their monthly bill under the previous rate because they did not meet the usage threshold.

MidAmerican stated it consolidated and simplified its rate structure in Docket No. RPU-2013-0004 to be consistent and equitable across all of MidAmerican's service territory. MidAmerican modeled the new demand rate for small commercial customers after the former demand rate for the East Pricing Zone, Rate 42, where the demand charge was billed every month with the minimum set at 10 kW.

MidAmerican stated that on March 17, 2014, the Board issued an order in Docket No. RPU-2014-0004 that ordered MidAmerican to develop a mitigation plan with the initial comparison between the temporary (interim) rates (effective August 15, 2013) and rates approved effective July 31, 2014. According to MidAmerican, the annual electric rate increase was capped at 15 percent and \$1,500 for non-residential customers. In the mitigation plan MidAmerican filed with the Board, on March 27, 2014, MidAmerican committed to evaluate the bill impacts resulting from the rate proposal for customers of record on December 31, 2013, that had a full twelve-month standard billing history in 2013 and did not change rates during the year. MidAmerican proposed to use a customer's 2013 usage information to calculate the amount the customer would have paid under the interim rates for that

full year to an estimated amount the customer was projected to pay each of the next ten years based on known base rates, equalization and phase-in factors, and forecasted amounts for the Energy Adjustment clause (EAC) and the Transmission Cost Adjustment (TCA) clause (excluding other clauses normally combined into the Energy Charge and taxes). MidAmerican stated that based upon the review required by the mitigation plan the rates charged to the complainants are the most economical rate class for these customers.

### **BOARD DISCUSSION**

Iowa Code § 476.3 provides when a complaint is filed as to the reasonableness of the rates, charges, schedules, service, regulations, or anything done or omitted to be done by a public utility subject to the Board's jurisdiction under Iowa Code chapter 476 the public utility shall be called upon to satisfy or answer the complaint. In cases where the Board determines that the public utility's response is inadequate and there appears to be reasonable grounds for investigating the complaint, the Board initiates a formal proceeding.

Based upon a review of the information provided by the ten business complainants and MidAmerican's response, the Board has determined that these complaints raise issues that require further investigation and should be addressed by the Board through a formal complaint proceeding. Only the Board can decide if MidAmerican has complied with the Board's decision on Docket No. RPU-2013-0004 and whether the rates charged by MidAmerican are just and reasonable. Since the



issues involved in the small commercial customer complaints address the same rates charged by MidAmerican, the Board will consolidate the informal complaints into Docket No. FCU-2014-0015.

### **HEARING SCHEDULED**

Iowa Code § 476.3(1) requires the Board to schedule a hearing to allow the parties to address the issues raised by the complaints when the Board determines a formal complaint proceeding should be opened. The Board will schedule a hearing to address the issues raised by the small business complaints in this order. Parties should come prepared to address the rates charged the complainants by MidAmerican, whether those rates comply with the mitigation plan approved by the Board in Docket No. RPU-2014-0004, and whether the rates are just and reasonable.

Normally, the Board would set a procedural schedule requiring prefiled testimony from all parties as contemplated by 199 IAC 7.10. However, the primary issue in this case appears to be whether MidAmerican fully complied with the mitigation plan approved by the Board when the company implemented its new rate design. It is unlikely that the resolution of that issue will depend to any great extent on any additional evidence from complainants. Instead, the focus appears to be on MidAmerican's actions and information in MidAmerican's possession. Accordingly, the Board will require MidAmerican to submit prefiled testimony and exhibits addressing that issue, while complainants will be given the option to pre-file

testimony and exhibits or to rely upon the information provided in their complaints, which is already a part of the record in this proceeding pursuant to 199 IAC 6.7.

Specifically, MidAmerican should explain how its actions are in compliance with the mitigation measures the Board ordered in Docket No. RPU-2013-0004. MidAmerican should address whether its analyses prior to implementing the new rates predicted bill increases of this magnitude for customers like complainants, or any other customers, and whether the company foresaw the significant increases. MidAmerican should describe all measures the company considered to mitigate the significant impacts described by complainants and provide a projection of rate increases for complainants over the phase-in period.

The Board is setting a shortened procedural schedule since complainants are experiencing larger-than-expected bills each month. This shortened procedural schedule will allow the Board to address the issues raised by complainants in a timely manner.

### **ORDERING CLAUSES**

#### **IT IS THEREFORE ORDERED:**

1. Docket No. FCU-2014-0015 is opened to allow for further investigation to address the complaints identified as C-2014-0123, C-2014-0126, C-2014-0127, C-2014-0128, C-2014-0129, C-2014-0130, C-2014-0131, C-2014-0132, C-2014-0141, and C-2014-0142.

2. MidAmerican Energy Company shall file prepared direct testimony and exhibits on or before December 15, 2014.

3. The complainants may file prepared direct testimony and exhibits on or before December 15, 2014, or they may rely on their complaints and other submissions in their respective informal proceedings to state their cases.

4. A hearing shall be held beginning at 9 a.m. on January 6, 2015, for the purpose of the presentation of testimony, cross-examination, and responding to questions by the Utilities Board. The hearing shall be held in the Board's Hearing Room, 1375 E. Court Avenue, Des Moines, Iowa. The parties shall appear thirty minutes before the start of the hearing to address procedural issues and to mark exhibits. Persons with disabilities requiring assistive services or devices to observe or participate should contact the Board at (515) 725-7331 five days in advance of the scheduled date to request that appropriate arrangements be made.

**UTILITIES BOARD**

/s/ Elizabeth S. Jacobs

/s/ Nick Wagner

ATTEST:

/s/ Joan Conrad  
Executive Secretary

/s/ Sheila K. Tipton

Dated at Des Moines, Iowa, this 21<sup>st</sup> day of November 2014.